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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,792	01/03/2001	Kurosh Samari-Kermani	20000426.ORI	1961
23595 7590 06/07/2007 NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			EXAMINER POON, KING Y	
			ART UNIT 2625	PAPER NUMBER
			MAIL DATE 06/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/753,792	SAMARI-KERMANI, KUROSCH	
	<b>Examiner</b>	<b>Art Unit</b>	
	King Y. Poon	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 March 2007.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 15-20 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 19, 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 3/27/2007.
2. Applicant's election with traverse of the restriction requirement in the reply filed on 3/27/2007 is acknowledged. The traversal is on the ground(s) that there is no processing data as the examiner indicates as the difference between species I and species II. This is not found persuasive because the restriction is based on the invention that requires "processing the received medical data to comply with DICOM" and the invention that does not require "processing the received medical data to comply with DICOM." Claim 15, line 6 clearly claiming "processing the received medical data to comply with DICOM". However, the examiner agrees with applicant's position that no medical data is being processed in the set of claims of claims 19, 20. Accordingly, claims 19, 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species.

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 17 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claim 17: The limitation of "creating multiple back up jobs until all back up data is assigned to a back up job" are subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The examiner has searched for the limitation: "multiple backup jobs are being created; all backup data that is to be assigned to multiple backup jobs are assigned to one backup job of the multiple backup jobs and the creating of the multiple backup jobs would not be stopped until all backup data that is to be assigned to multiple backup jobs is assigned to the one backup job" and can not found such limitation.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15, 16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pelanek in view of Murray et al (US 5,721,891), Koritzinsky (US 6,988,074), Kahle (US 5,518,325), Laney et al (US 6,366,966).

Regarding claims 15, 16: Pelanek teaches a medical data recording method (fig. 1) comprising: receiving medical data (32 received medical data from 30, fig. 1), extracting (extract a patient information from at least 2 patients, column 5, lines 59-62) patient and study information from the medical data (column 5, lines 40-45, column 5, lines 25-30; note, the patient information would be supplied by image source 58) received and storing the patient and study information, adding medical data to a job folder (directory, column 5, lines 49), creating a job file (the collection of data that is being sent to the CD writer, fig. 3, fig. 4) and storing it (inherent properties of sending created data file, images), submitting the job file to the CD writer, burning a DISC with the data produced by the job file (column 4), optionally deleting the job file and the job data (examiner is taking official notice, it is well known in the art to delete data file. It would benefit Pelanek because Pelanek's hard drive would run out memory if none of the created file in the hard drive are deleted).

Pelanek does not teach a timer detects a pause in a data stream to select the end of the data transmitted to the computer for each job.

Murray, in the same area of transmitting data, teaches a timer (column 2, lines 30-35) detects a pause (column 2, lines 40-50) in a data stream to select the end of the data transmitted.

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek to include: noting the end of the patient and study information from the received medical data by a time out period,

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek data storing method by the teaching of Murray because of the following reason: (a) it would have improved the system of Pelanek for detecting the end of data transmitted, as taught by Murray at column 1.

Pelanek does not teach what kind of imaging standard is used for presenting his medical images; therefore a person with ordinary skill in the art would need to rely on other references for imaging standard of presenting the medical images.

Koritzinsky, in the same area of medical images teaches DICOM is widely used for data presentation in the field of medical.

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek to include: processing the received medical data to comply with DICOM standard and to include the system file for DICOM (DICOM inherently contains system file for data presentation) in the directory/job folder (note 1).

It would have been It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek data storing method by the teaching of koritzinsky because of the following reason: (a) it would have allowed a person with ordinary skill in the art to made use of Pelanek's system, and (b) it would have allowed the stored images to be view by other medical systems.

Note 1: Since Pelanek teaches to store information using directory, and it is well known in the art that most computer system stored information using directories, it would have been obvious to stored the system file and other data file used for recording in a directory-at least in the root directory.

Pelanek also does not teach viewing software; print template file; and print template merge file for printing a template, using an autoloader, on the DISC.

Laney, in the same area of viewing data stored in a CD, on a computer; teaches recording (not all data on a CD are inherently recorded) software on the medium for viewing the data stored thereon on a computer (column 3, lines 15-65). Kahle teaches print template file, (title, column 7, lines 1-5) and print template merge file (form, column 7, lines 1-4) for printing a template on the DISC (column 7, lines 55-60).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek CD to include: recording software on the medium for viewing the data stored thereon on a computer.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek CD recording method by the teaching of Laney because of the following reason: (a) it would have provide user with a greater ease of using the computer, as taught by Laney at column 1, lines 10-42.

It would also have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek to include: print template file, a print template merge file in the directory of computer of Pelanek and a autoloader for receiving the print job file/collected data for printing a template on the DISC.

It would also have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Pelanek because: (a) it is desirable, (b) it would provide a system for printing on each disk immediately before or after it is recorded, without requiring the manual writing of ID information; and (c) the greatest product quality and integrity as well as improved production cycle time can be assured; as taught by Kahle, column 1, lines 40-50).

Regarding claim 18: Pelanek teaches backing up the patient data on a DISC if desired (inherently properties of storing data on a DISC, also see column 3, lines 43-45).

### ***Response to Arguments***

7. Applicant's arguments filed 8/24/2006 have been fully considered but they are not persuasive.

With respect to applicant argument that page 9, line 21 to page 10, line 4 teaches "creating multiple backup jobs until all back up data is assigned to a back up job," has been considered.

In reply: page 9, line 21 to page 10 line 4 teaches all back up data are assigned to multiple backup jobs, not just one back up job; if multiple backup jobs are created.

Note: MPEP 2111.01 states although claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, this is not the mode of claim interpretation to be applied during examination. During examination, the claim must be interpreted as broadly as their terms reasonably allow. Ordinary, simple



English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say. Therefore, all backup data are ALL data that need to be backup. If backup data are to be backup in multiple jobs, all backup data includes backup data in all back up jobs.

With respect to applicant's argument that none of the prior art teaches extracting patient and study information from the medical data received; has been considered.

In reply: Fig. 1, Pelanek teaches the archive station received medical images from a medical image source 30 and store in a buffer 52 (column 5, lines 34-45). Buffer 52 is capable of storing at least (it imply<sup>ies</sup> more) two long patient study cases (column 5, lines 59-63). Pelanek further teaches a CD is used to record a patient's case study (column 5, lines 50-57, column 1, lines 1-15). Therefore, the patient and his/her study information must be extracted from the data of at least two patient received and stored in buffer 52.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to King Y. Poon whose telephone number is 571-272-7440. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KING Y. POON  
PRIMARY EXAMINER

June 3, 2007